

REMARKS/ARGUMENTS

In order to hasten the prosecution of the present application, the present Amendment incorporates features indicated as being allowable in the pending Office Action, reserving the right to amend the claims back to their originally filed form in the event that the present application is not allowed.

Claims 1-23 are pending in this application. Claims 1, 8, 15 and 20-23 have been currently amended.

Drawing

The Replacement drawing has been attached to this Response to replace the original FIG. 3 in order to correct formal matters.

Allowable Subject Matter

The Patent Office has indicated that Claims 1-14 were allowed (Office Action, Page 3). Applicant herein thanks the Examiner. Applicant has currently amended Claims 1 and 8 to correct formal matters.

The Patent Office has indicated that Claims 20-23 were “objected to as being dependent upon a rejected base claim” (Office Action, Pages 3). Applicant has amended these claims to incorporate the limitations of the base claim and has also corrected formal matters. Thus, Claims 20-23 should be allowed.

Claim Rejections – 35 USC § 103(a)

Claims 15-19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Porrazzo et al. (“Porrazzo”, U.S. Patent No. 5,872,855). Applicant respectfully traverses this rejection.

“To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.” (emphasis added) (MPEP § 2143). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596

(Fed. Cir. 1988).

Independent Claim 15, as amended, recites “the means to switch being a hardware switch” (emphasis added). As admitted by the Patent Office, “*Porrazzo* does not expressly teach of [sic] a hardware switch that changes said speaker input from the analog signal to a digital to analog converter when digital audio is detected” (emphasis added) (Office Action, page 4, lines 5-7). It is respectfully submitted that Claim 15 should be allowed since Porrazzo fails to teach, disclose, or suggest “the means to switch being a hardware switch,” as claimed in Claim 15.

Claims 16-19 depend from Claim 15 and are therefore allowable due to their dependence.

CONCLUSION

In light of the foregoing, Applicant respectfully requests that a timely Notice of Allowance be issued in the case.

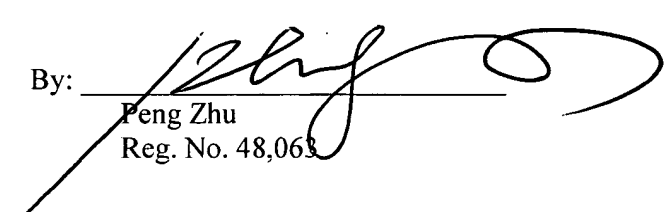
Respectfully submitted on behalf of

Gateway, Inc.,

Dated: September 17, 2004

By: _____

Peng Zhu
Reg. No. 48,063

A handwritten signature in black ink, appearing to read 'Peng Zhu', is written over a horizontal line. The signature is stylized with a large loop at the end.

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